

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WILLIAM N. MORALES,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

No. 20-CV-10568 (KMK)

ORDER ADOPTING R&R

Appearances:

Charles E. Binder, Esq.
Law Office of Charles Binder and Harry Binder, LLP
New York, NY
Counsel for Plaintiff

Sixtina Fernandez, Esq.
Social Security Administration, Office of the General Counsel
New York, NY
Counsel for Defendant

Victoria Treanor, Esq.
Social Security Administration, Office of the General Counsel
Baltimore, MD
Counsel for Defendant

KENNETH M. KARAS, United States District Judge:

On May 30, 2018, Plaintiff William N. Morales (“Plaintiff” or “Mr. Morales”) filed applications for Social Security Disability benefits and Supplemental Security Income benefits with an onset of disability of April 16, 2018. (Pl’s Aff. ¶ 1 (Dkt. No. 23).) Although an Administrative Law Judge (“ALJ”) initially decided that Mr. Morales was not disabled—a finding upheld by the Appeals Council—Mr. Morales appealed to this Court and obtained a stipulation of remand. (*Id.* ¶¶ 2–3.) As a result of that appeal, the Court awarded Plaintiff’s

counsel \$750 under the Equal Access to Justice Act (“EAJA”). (*See* Consent Order (Dkt. No. 20).) On remand, the ALJ found Mr. Morales disabled since January 15, 2021, a finding that entitled him to past-due benefits totaling \$41,237. (Report & Recommendation (“R&R”) 6 (Dkt. No. 28).)¹

Prior to his appeal, Mr. Morales signed a retainer agreement with his counsel providing that he would pay counsel up to 25% of past due benefits awarded on remand. (*Id.* at 2.) On June 5, 2023, Plaintiff’s counsel submitted the instant Motion seeking award of \$5,154.63—roughly 12.5% of Plaintiff’s past-due benefit award. (*Id.* at 5; Not. of Mot. (Dkt. No. 21); Mem. of Law in Supp. of Mot. (Dkt. No. 22).) Defendant filed its response on June 16, 2023, (Dkt. No. 26), and Plaintiff replied on June 22, 2023, (Dkt. No. 27).

On October 5, 2023, Magistrate Judge Victoria Reznik entered a Report & Recommendation (the “R&R”) recommending that this Court grant Plaintiff’s Motion for Attorneys’ Fees pursuant to 42 U.S.C. § 406(b). (R&R 7–8 (Dkt. No. 28).) In the thorough R&R, Judge Reznik provided notice that objections to the R&R were due within 14 days. (*Id.* at 8.) *See also* Fed. R. Civ. P. 72(b). No objections were filed. (*See generally* Dkt.)

Because no objections have been filed, the Court reviews the R&R “only for clear error on the face of the record.” *See Brennan v. Colvin*, No. 13-CV-6338, 2015 WL 1402204, at *1 (S.D.N.Y. Mar. 25, 2015) (internal quotation marks omitted); *see also Iannolo v. Astrue*, No. 10-CV-7602, 2012 WL 523619, at *1 (S.D.N.Y. Feb. 16, 2012) (same). Having reviewed the R&R for clear error and finding none, the Court adopts the R&R in its entirety.

Accordingly, it is hereby:

¹ Plaintiff is currently appealing the portion of the ALJ’s determination finding he was not disabled between April 16, 2018, and January 14, 2021. (*See* Pl’s Aff. ¶ 5.)

ORDERED that Plaintiff's Motion is granted.

ORDERED that Defendant shall pay Plaintiff's counsel \$5,154.63.

ORDERED that counsel for Plaintiff shall promptly refund the previous fee award of \$750 directly to Plaintiff.

ORDERED that the Clerk of Court is respectfully directed to terminate the pending Motion, (Dkt. No. 21), and to close the case.

SO ORDERED.

Dated: October 31, 2023
White Plains, New York

A handwritten signature in black ink, appearing to read 'K. Karas', is positioned above a horizontal line.

KENNETH M. KARAS
United States District Judge